

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

JAN 27 2011

JULIA C. DUDLEY, CLERK
BY *[Signature]*
DEPUTY CLERK

TIFFANY D. MITCHELL,)	CASE NO. 4:09CV00035
)	
Plaintiff,)	
)	
v.)	<u>REPORT AND RECOMMENDATION</u>
)	
MICHAEL J. ASTRUE, Commissioner)	
of Social Security,)	
)	
Defendant.)	By: B. Waugh Crigler
)	U. S. Magistrate Judge

According to Rule 4 of the court's Local Rules, plaintiff's brief addressing why the Commissioner's March 26, 2009 decision is not supported by substantial evidence or why the decision otherwise should be reversed or the case remanded was due on May 17, 2010. Plaintiff did not file a brief.

On July 22, 2010, the undersigned entering an Order requiring plaintiff to show case for her failure to prosecute on or before August 2, 2010. On August 2, 2010, plaintiff filed her first motion for extension of time. The undersigned granted the motion and gave plaintiff until September 16, 2010 to file her response.

On September 16, 2010, plaintiff filed a second motion for extension of time. Without objection of the Commissioner, the motion was granted, and plaintiff was given until November 15, 2010 to file her response.

On November 15, 2010, plaintiff filed a third motion for extension of time. The motion was granted, and plaintiff was given until January 15, 2011 to make a response. Plaintiff was advised that no further extensions of time would be granted. Plaintiff has filed no further pleadings.

For these reasons, the undersigned finds that plaintiff has failed to comply with Rule 4 of the court's Local Rules regarding the briefing of Social Security cases. Notwithstanding, the

undersigned has reviewed the record and concludes that the Law Judge's March 26, 2009 decision is supported by substantial evidence.

It hereby is

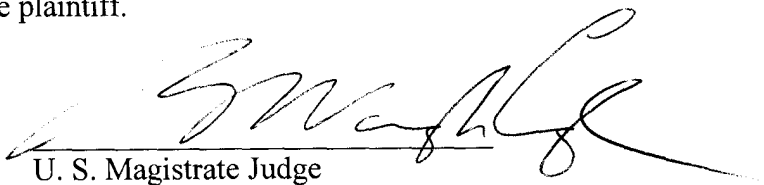
R E C O M M E N D E D

that an Order enter AFFIRMING the Commissioner's final decision, GRANTING judgment to the Commissioner, and DISMISSING this action from the docket of the court.

The Clerk is directed to immediately transmit the record in this case to the presiding District Judge. Both sides are reminded that pursuant to Rule 72(b) they are entitled to note objections, if any they may have, to this Report and Recommendation within fourteen (14) days hereof. Any adjudication of fact or conclusion of law rendered herein by the undersigned not specifically objected to within the period prescribed by law may become conclusive upon the parties. Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C) as to factual recitations or findings as well as to the conclusions reached by the undersigned may be construed by any reviewing court as a waiver of such objection.

The Clerk is directed to transmit a certified copy of this Report and Recommendation to all counsel of record and mail a copy to the plaintiff.

ENTERED:


U. S. Magistrate Judge

1-27-2011

Date